

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

Eric Hafner,

Plaintiff,

v.

Nevada Governor Joe Lombardo; et al.,

Defendants.

Case No. 2:24-cv-00743-RFB-DJA

**Order**

Before the Court is Plaintiff Eric Hafner's application to proceed *in forma pauperis* (ECF No. 4) and motion to amend his complaint (ECF No. 6). The Court previously deferred ruling on Plaintiff's application because it was incomplete and gave Plaintiff until June 6, 2024 to complete his application by filing a completed financial certificate and financial statement. (ECF No. 5). Plaintiff submitted a financial statement showing two months of his financial history on May 10, 2024, but not a financial certificate. (ECF No. 7). Plaintiff did not explain whether he has been at FCI Otisville for less than six months,<sup>1</sup> but did explain that the trust fund officer refused to complete his financial certificate. (*Id.*).

**I. *In forma pauperis* application.**

Because Plaintiff's application is incomplete, the Court will deny it without prejudice and give Plaintiff thirty days to file a completed application. The Court will send Plaintiff the application packet and will also send Plaintiff a copy of this order so that he may present it to the financial officer at FCI Otisville. An authorized officer at the FCI Otisville institution must provide Plaintiff with copies of his inmate trust account statement for the past six months (or, if

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<sup>1</sup> Under Local Special Rule 1-2, "[i]f the applicant has been at the institution for fewer than six months, the certificate must show the account's activity for this shortened period." Here, it is unclear if Plaintiff has submitted only a portion of his inmate account statement or if Plaintiff has been at FCI Otisville for less than six months.

1 Plaintiff has been there for fewer than six months, the statements for this shorter period) and a  
2 properly executed financial certificate signed by the authorized officer. Plaintiff shall have until  
3 July 17, 2024 to file a complete application to proceed *in forma pauperis* or pay the \$405 filing  
4 fee.

5 **II. Motion to amend.**

6 Plaintiff's motion to amend his complaint does not seek to amend his complaint, but seeks  
7 to supplement it. (ECF No. 6). However, Plaintiff may not "supplement" a prior complaint. This  
8 is because, as a general rule, an amended complaint supersedes (replaces) the original complaint  
9 and renders prior complaints without legal effect. *Exeltis USA, Inc. v. First Databank, Inc.*, 779  
10 F.App'x 486, 487 (9th Cir. 2019). So, if this case were to proceed on Plaintiff's proposed  
11 amendment (ECF No. 6), it would mean that Plaintiff has abandoned the claims he brought in his  
12 initial complaint (ECF No. 1-1). Because it does not appear that it is Plaintiff's intent to abandon  
13 these claims, the Court will deny his motion to amend without prejudice.

14 Because the Court has denied Plaintiff's motion to amend without prejudice, Plaintiff may  
15 choose to file an amended complaint that is complete in itself. If Plaintiff chooses to do so, that  
16 amended complaint will also be due July 17, 2024. If Plaintiff chooses to include an amended  
17 complaint, that amended complaint may not refer to Plaintiff's original complaint, supplement, or  
18 any other documents to make the amended complaint complete.

19 If Plaintiff does not file an amended complaint on or before July 17, 2024, the Court will  
20 screen Plaintiff's initial complaint (ECF No. 1-1) and will not consider any of the claim he raised  
21 in his supplement (ECF No. 6).

22  
23 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*  
24 *pauperis* (ECF No. 4) is **denied without prejudice**. Plaintiff shall have until **July 17, 2024** to  
25 file a complete application, including a financial account statement and financial certificate, or to  
26 pay the \$405 filing fee. The Clerk of Court is kindly directed to send Plaintiff: (1) a copy of this  
27 order; and (2) the application to proceed *in forma pauperis* by an inmate along with its  
28 instructions.

1           **IT IS FURTHER ORDERED** that an authorized officer at FCI Otisville must provide  
2 Plaintiff with his financial account statement for the past six months—or for the length of time  
3 Plaintiff has been incarcerated at FCI Otisville if shorter than six months—and must complete the  
4 financial certificate included with the form application to proceed *in forma pauperis* that the  
5 Court has sent Plaintiff.

6           **IT IS FURTHER ORDERED** that Plaintiff shall have until **July 17, 2024** to file an  
7 amended complaint including all of his claims. If Plaintiff does not submit a complete amended  
8 complaint by this date, the Court will screen his initial complaint (ECF No. 1-1) and will not  
9 consider the claims he brought in his supplement (ECF No. 6).

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11           DATED: June 17, 2024



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DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE